

立法會
Legislative Council

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by the Administration)

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**Bills Committee on
Provision of Municipal Services (Reorganization) Bill**

**Minutes of Meeting
held on Wednesday, 15 September 1999 at 2:30 pm
in Conference Room A of the Legislative Council Building**

Members Present : Hon Andrew WONG Wang-fat, JP (Chairman)
Hon Kenneth TING Woo-shou, JP
Hon HO Sai-chu, SBS, JP
Hon LEE Wing-tat
Hon Fred LI Wah-ming, JP
Hon Ambrose CHEUNG Wing-sum, JP
Hon CHAN Wing-chan
Hon CHAN Kam-lam
Hon Jasper TSANG Yok-sing, JP
Hon Howard YOUNG, JP
Hon CHOY So-yuk
Dr Hon TANG Siu-tong, JP

Members Absent : Hon Cyd HO Sau-lan
Hon Ronald ARCULLI, JP
Hon James TO Kun-sun
Hon YEUNG Yiu-chung
Hon FUNG Chi-kin

Public Officers Attending : Mrs Maureen CHAN
Deputy Secretary for Constitutional Affairs

Mr John LEUNG
Principal Assistant Secretary for Constitutional Affairs

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Mr Paul CHEUNG
Senior Staff Officer (Leisure Policy)
Urban Services Department

Miss Agnes TANG
Chief Manager (Cultural Services) Headquarters
Regional Services Department

Mr K T LAI
Assistant Director of Regional Services
(Environmental Health Policy)

Mrs N DISSANAYAKE
Senior Assistant Law Draftsman (Department of Justice)

Miss Selina LAU
Government Counsel (Department of Justice)

Clerk in Attendance : Mrs Constance LI
Chief Assistant Secretary (2) 2

Staff in Attendance : Miss Connie FUNG
Assistant Legal Adviser 3

Miss Flora TAI
Senior Assistant Secretary (2) 2

I. Clause-by-clause examination

(from section 83A of paragraph 84 of Schedule 3 onwards)

[Paper No. CB(2)2164/98-99(02) and Annex C to Paper No. CB(2)2646/98-99(02)]

At the invitation of the Chairman, members continued clause-by-clause examination from the proposed section 83A under paragraph 84 of Schedule 3. The gist of discussion is summarised in the following paragraphs.

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Paragraph 84

2. Members noted that the authority under the proposed section 83A was vested with the Secretary for the Environment and Food, except section 83A(1)(g) and (i) for which the Director of Food and Environmental Hygiene was the designated authority. On the rationale for designating different authorities for section 83A, Deputy Secretary for Constitutional Affairs (DS(CA)) said that section 83A in general dealt with the making of hawker regulation and such authority was normally vested with a policy secretary. However, section 83A(1)(g) and (i) covered operational matters, namely, specifying conditions for licensed hawkers and power to cancel and suspend hawker licences, which should more appropriately be dealt with by the department head, i.e. the Director of Food and Environmental Hygiene (DFEH).

3. Responding to Mr LI Wah-ming's queries, Assistant Legal Adviser 3 explained that the Administration proposed to designate different authorities for policy and operational matters. Senior Assistant Law Draftsman (SALD) added that the Secretary for the Environment and Food was empowered under section 83A to make regulations but the DFEH would be the authority to specify conditions in relation to allocation of pitches to licensed hawkers, erection of stalls as well as cancellation and suspension of hawker licence on conviction of a hawker offence. The Chairman remarked that the provision had proposed no change to the existing arrangement if the PMCs had also delegated the power under section 83A(1)(g) and (i) to their executive departments.

4. The Chairman asked about the reasons for the Secretary for the Environment and Food, instead of the DFEH, to be the designated authority for section 83B. DS(CA) replied that the main functions under section 83B were to advise the Commissioner for Transport on setting aside streets for hawking purposes and allocating pitches in the streets to hawker. She agreed with the Chairman that these were operational functions which should be dealt with by DFEH instead of the Secretary for the Environment and Food. The Administration would move a Committee stage amendment (CSA) to that effect.

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5. On the authority to require provision of ventilating system in scheduled premises under section 93, Mr LEE Wing-tat asked whether billiard establishments and public bowling alleys would be subject to different licensing requirements imposed by DFEH and the Director of Leisure and Cultural Services (DLCS). Principal Assistant Secretary for Constitutional Affairs (PAS(CA)) clarified that the scheduled premises under section 93 only included restaurants, dancing establishments, theatres, cinemas, funeral parlours and factory canteens. The DLSC would be the future licensing authority under section 92A for billiard establishment, public bowling alley, public skating rink and public table tennis saloon which were not subject to any licensing requirement in respect of ventilating system.

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6. In response to Mr LI Wah-ming, Assistant Director of Regional Services (Environmental Health Policy) (AD/RS) said that if the scheduled premises under section 92A were air-conditioned, they would be subject to the licensing requirement in respect of ventilating system specified by the Fire Services Department. He confirmed that there would be no change to the existing practice.

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7. The Chairman remarked that section 94 concerning ventilating systems might be redundant if these premises were already subject to the licensing requirements specified by the Fire Services Department. DS(CA) undertook to check whether these provisions were adequately covered by other existing legislation.

8. PAS(CA) further explained that the Secretary for Home Affairs, who was the current licensing authority for theatres and cinemas under the Places of Public Entertainment Ordinance (Cap. 172), would temporarily delegate his authority to the DFEH so that there would be one licensing authority for these premises. He said that the Home Affairs Bureau (HAB) was conducting an overall review to streamline the licensing of places of public entertainment. The review would involve different bureaux and departments in order to agree on the different licensing requirements and legislative amendments required of fire safety, ventilation and building safety.

9. Mr LEE Wing-tat remarked that the DFEH did not seem to be the appropriate licensing authority for theatres and cinemas. Nevertheless, he supported the idea of rationalising the licensing mechanism so that only one licensing authority would be designated for places of public entertainment.

10. Mr LI Wah-ming inquired about the reasons for designating different authorities under sections 104 and 105 for making regulation for control of advertisements. PAS(CA) explained that regulation under section 104 was to restrict the exhibition of advertisements in certain places. As the enforcement was to be carried out by the new Food and Environmental Hygiene Department, it would be more appropriate for the Secretary for the Environment and Food to make such regulations. However, enforcement of section 105 in respect of removal of dangerous advertisement hoarding would remain to be carried out by the Director of Buildings.

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11. Members noted that the Administration had inadvertently omitted Director of Leisure and Cultural Services as the designated authority in relation to fees and conditions for the use of stadia under section 105E and would move a CSA to that effect.

12. Dr TANG Siu-tong and Mr LEE Wing-tat asked about the conditions for

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the use of civic centres under section 105P, Chief Manager (Cultural Services) of the Regional Services Department explained that these conditions were rules in relation to the daily operation of the civic centres. She said that the content of the event to be held in a civic centre was not one of the considerations when the department vetted an application for use of the civic centre. At Mr LEE Wing-tat's request, PAS(CA) undertook to provide information on the practice of the Provisional Urban Council in vetting applications for the use of civic centres. The Chairman asked whether the conditions for the use of civic centres under section 105P would be subject to the regulations to be made by the Secretary for Home Affairs under section 105O. SALD replied that section 105P was a general empowering provision and would not be restricted by the regulations.

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13. DS(CA) said that the Administration had considered members' views and would move a CSA to delete "organized" before "games and sports" under section 107(2).

14. In response to the Chairman, PAS(CA) said that the public pleasure ground rules to be made by the future Director of Leisure and Cultural Services under section 110 must not contradict those made by the Secretary for Home Affairs under section 109 of the Ordinance.

15. DS(CA) informed members that the declaration of the names of private streets in the urban area and the New Territories were at present made by the respective municipal council. The Administration now proposed that one single Authority, i.e. the Director of Lands, would deal with the naming of all private streets.

16. Mr LI Wah-ming asked why the Secretary for Home Affairs would be the new authority for prescribing fees and charges in connection with the licensing of activities in the Eleventh Schedule under section 124K. PAS(CA) replied that these licensing fees and charges would be determined by the Policy Secretary on a cost-recovery basis, by way of regulation which was subsidiary legislation subject to negative vetting of the Legislative Council. The procedures were different from those fees and charges to be determined by the Director of Leisure and Cultural Services under section 124J(1) which only required the approval of the Financial Secretary.

17 Mr Fred LI Wah-ming reiterated his concern about the fee-setting mechanism. DS(CA) said that the Administration was seriously considering members' suggestion and would revert to the Bills Committee as soon as possible.

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Paragraphs 85-86

18. Members raised no queries on paragraphs 85-86.

Paragraph 87

19. DS(CA) informed members that the Administration was preparing a comparison table to explain the differences between existing and proposed authorities who would initiate proceedings for offences in the Sixth Schedule. Members agreed to defer the discussion until the comparison table was available.

Paragraphs 88-90

20. Members noted that the Eighth Schedule was deleted because the By-laws therein were either obsolete or already covered in the new Regulations.

Paragraphs 91-92

21. DS(CA) explained that billiard establishment, public bowling alley, public skating rink, public table tennis saloon and undertaker of burials were currently listed as licensed activities in the Eleventh Schedule. While the Director of Leisure and Cultural Services would be the licensing authority for the first four activities, undertaker of burials would be licensed by the future Department of Food and Environmental Hygiene. The latter was therefore separately listed in the new Schedule 11A for clarity.

22. Mr LI Wah-ming sought clarification on the inclusion of "billard establishments" and public table tennis saloons as the licensed activities under the Eleventh Schedule. AD/RS replied that under section 92A of the Ordinance, billiard establishments (other than those for private use or with less than four tables) and public table tennis saloons were subject to licensing control. However, as table tennis saloons no longer existed, no licence had been issued for a long time. DS(CA) informed members that the Administration would consider introducing a CSA to delete public table tennis saloon from the proposed Places of Amusement Regulation.

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Paragraphs 93-94

23. Members did not raise any queries.

Paragraphs 95-144 (Abattoirs Regulation)

24. Members noted that the proposed amendments were only technical.

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Paragraphs 145-152 (Advertisements Regulation)

Admin 25. On the proposed repeal of sections 8, 9, 10 and 11 under the Advertisements Regulation, PAS(CA) explained that there were already other legal provisions for controlling the projection of advertisement and erection of neon signs, as detailed in the Administration's letter of 31 May 1999 to the Assistant Legal Adviser [Paper No. CB(2)2164/98-99(02)]. The Administration was now checking whether there were adequate provisions in other legislation prohibiting the erection of signs interfering with road traffic. The Chairman further asked the Administration to review whether the definitions of "occulting sign" and "neon sign" adequately covered new substances now used for advertisement.

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Paragraphs 153-168 (Bathing Beaches Regulation)

26. Mr LI Wah-ming asked whether it would be an offence for a member of the public to use the bathing beach which was temporarily closed by the Director of Leisure and Cultural Services under section 4 of the Regulation. The Chairman drew members' attention to section 16 of the Regulation that any person who failed to comply with the requirements of a notice posted under section 4(2) without reasonable excuse would be guilty of an offence, and would be liable on summary conviction to a fine at level 1 and to imprisonment for 14 days. SALD added that any closure of, or restriction of the use of, a bathing beach under section 4 had to be effected by the posting of a notice to that effect in any conspicuous manner on the beach. Senior Staff Officer (Leisure Policy), Urban Services Department pointed out that there were practical difficulties in enforcing the law because it was quite impossible to block off an entire beach, and life guards could not station on the beaches round the clock. The Urban Services Department had already issued guidelines advising life guards to carry out their duty only if their safety would not be endangered in case of a temporary closure of a bathing beach, and to seek assistance of the marine police if necessary. He informed members that the Administration was now reviewing the need to prosecute offenders under section (4). Mr LEE Wing-tat said that allowing those swimmers to use the closed bathing beach under inclement weather would endanger the safety of life guards and waste public resources. He urged the Administration to take prosecution action in order to achieve deterrent effect. Other members shared the view.

27. Responding to the Chairman, DS(CA) confirmed that the Administration proposed to delete section 7(2) which required sterilization of costume or towel to be hired at beaches because such facilities were no longer provided at beaches.

28. Mr LEE Wing-tat asked about the rationale for retaining section 13 which prohibited delivery of prayer or speech and public meetings and assemblies in any bathing beach without the permission of the future Director of

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the Leisure and Cultural Services. Mr LI Wah-ming pointed out that the provision was unnecessary because public meetings and assemblies were covered by other legislation such as the Public Order Ordinance (Cap. 245).

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DS(CA) undertook to review the need of retaining section 13.

II. Any other business

29. The Chairman reminded members that the next meeting would be held on Friday, 17 September 1999 from 8:30 am to 12:30 pm to continue clause-by-clause examination of the Bill.

30. The meeting ended at 4:40 pm.

Legislative Council Secretariat

9 May 2000